

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 19 1998

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OFFICE OF
MANAGING DIRECTOR

86-285

Vincent J. Curtis, Jr., Esquire
Anne Goodwin Crump, Esquire
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street
Eleventh Floor
Arlington, Virginia 22209

Re: Request for Waiver of Regulatory Fee

Dear Mr. Curtis and Ms. Crump:

This is in response to the request for a waiver of the Fiscal Year (FY) 1998 regulatory fee that you filed on behalf of Midwest Radio, Inc., ("Midwest") licensee of Station KKDM(FM), Des Moines, Iowa.

You assert that Midwest has encountered "substantial and continuing losses over the past several years, coupled with extraordinary losses in 1998 due to a tornado which severely damaged the station's main studio." In support of your claim of financial hardship you submitted a copy of Midwest's 1996 income tax return.

In establishing its regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. Thus, the Commission decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995). The Commission further held that regulatees can establish financial need by submitting:

[I]nformation such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.

10 FCC Rcd at 12761-2762.

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2.

In determining whether a licensee has sufficient revenues to pay its regulatory fees, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits. Thus, although deductions for amortization and depreciation, which do not affect cash flow, and payments to principals, reduce gross income for tax purposes, those deductions also represent money which is considered to be available to pay the regulatory fee.

Although Midwest's 1996 income tax return is evidence of financial hardship, the data is over two years old and is not conclusive with respect to Midwest's current financial situation.

In the absence of current documentation, you have failed to establish a compelling case of financial hardship. Therefore, your request for waiver of KKDM(FM)'s regulatory fee is dismissed. Payment of the FY 1998 regulatory fee in the amount of \$1,750 for Radio Station KKDM is now due. The \$1,750 should be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. However, in view of your allegations of financial hardship, in lieu of payment, you may refile KKDM's request together with current and appropriate supporting documentation and a request to further defer payment of the fee, within 30 days from the date of this letter.

If you have any questions concerning the regulatory fees, please call the Chief, Fee Section at (202) 418-1995.

Sincerely,



Mark Reger
Chief Financial Officer

Enclosure

000000BCB-98-098

ANN BAVENDER*
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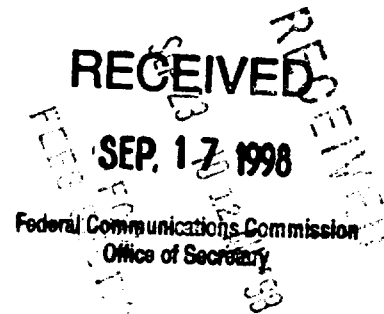
WRITER'S DIRECT

September 17, 1998

812-0426
crump@fhh-telcomlaw.com

BY HAND DELIVERY

Magalie Roman Salas, Esquire
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554
Attention: Managing Director



Re: Request for Waiver of Regulatory Fees &
Petition for Deferral of Regulatory Fees
KKDM(FM), Des Moines, Iowa

Dear Ms. Salas:

Transmitted herewith, on behalf of Midwest Radio, Inc., licensee of Station KKDM(FM), Des Moines, Iowa, are an original and four copies of its "Request for Waiver of Regulatory Fees and Petition for Deferral of Regulatory Fees Due to Hardship."

Should any questions arise concerning this matter, please communicate with this office.

Very truly yours,

Anne Goodwin Crump
Counsel for Midwest Radio, Inc.

Enclosures

RECEIVED

SEP 17 1998

Federal Communications Commission
Office of Secretary

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of)
)
Fiscal Year 1998 Regulatory Fees)
KKDM(FM), Des Moines, Iowa)

Directed to: Managing Director

**REQUEST FOR WAIVER OF REGULATORY FEES AND
PETITION FOR DEFERRAL OF REGULATORY FEES DUE TO HARDSHIP**

Midwest Radio, Inc. ("Midwest"), licensee of Station KKDM(FM), Des Moines, Iowa, by its attorneys, hereby respectfully requests that its regulatory fees for fiscal year 1998 be waived and that any payment of regulatory fees be deferred due to financial hardship. With respect thereto, the following is submitted:

1. Midwest is seeking a waiver and deferral of its regulatory fees due for fiscal year 1998 due to substantial and continuing losses over the past several years, coupled with extraordinary losses in 1998 due to a tornado which severely damaged the station's main studio. Because of this combination of factors, Midwest is unable to pay its assessed regulatory fees of \$1,750 plus \$11 for its studio-transmitter link.

2. Station KKDM(FM) began broadcasting in late August 1995. Due to various difficulties, however, the license for the station was not granted until March 13, 1997.

Accordingly, prior to this year, Midwest has been paying the lower regulatory fee associated with a construction permit. Throughout the entire period, however, Midwest has suffered substantial

financial losses. Therefore, Midwest now finds itself unable to pay the new, higher regulatory fees due.

3. Attached hereto is a copy of relevant pages of Midwest's 1996 Federal corporate income tax return. That return shows that during 1996, Midwest lost \$363,490, and had total cumulative losses of \$708,703. Midwest's 1997 tax return has not yet been completed and is currently being finalized. When complete, however, Midwest estimates that the 1997 return will also show operating losses on the order of \$300,000.

4. Calendar year 1998 thus far has proved to be even more financially disastrous than preceding years. During 1998, revenues have declined sharply. Accordingly, Midwest is continuing to suffer severe operating losses. Furthermore, on June 29, 1998, the main studio of KKDM(FM) was severely damaged by a tornado which struck Des Moines. That tornado tore off the roof of the main studio building. As a result, heavy rains saturated the interior of the building, thereby destroying its offices and studios and damaging much of the station's studio equipment and furniture. Midwest has had to operate in temporary facilities since the tornado and to the present time. Midwest estimates that the total losses from the tornado will be as much as \$500,000, including both equipment loss, rebuilding costs, and lost revenues. Insurance claims remain pending, but insurance proceeds should cover only approximately \$250,000 to \$300,000 of the loss. Accordingly, Midwest estimates that it will have out-of-pocket losses of between \$100,000 and \$200,000 due to the tornado damage.

5. In addition to the direct costs of repairing and replacing the building, Midwest suffered lost revenues due to the tornado. Because the studio and equipment had been damaged or destroyed, Midwest was for a period unable to originate live programming but could only re-play

earlier programming. As a result, Midwest was unable to air new commercial spots during that period and suffered the consequent loss of the revenues that the unaired commercials would have generated. Even after some live program origination was restored, the station did not have its full production capacity and therefore lost further opportunities to generate additional revenues. The station is even now continuing to work on completion of the repairs to the studio.

6. As a result of all of these financial hardships, Midwest is unable to pay its assessed fiscal year 1998 regulatory fees. Therefore, Midwest respectfully requests that its regulatory fees for fiscal year 1998 be waived and that any payment of regulatory fees be deferred pending the Commission's consideration and determination with respect to this request.

Respectfully submitted,

MIDWEST RADIO, INC.

By:



Vincent J. Curtis, Jr.

Anne Goodwin Crump

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1300 North 17th Street
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September 17, 1998

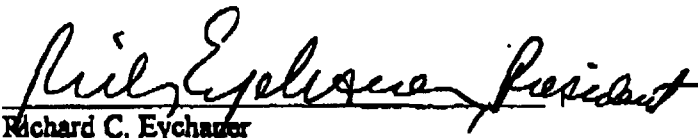
DECLARATION

I, Richard C. Eychaner, hereby declare and state as follows:

I am President of Midwest Radio, Inc., licensee of KKDM(FM), Des Moines, Iowa. I have read the foregoing Request for Waiver of Regulatory Fees and Petition for Deferral of Regulatory Fees Due to Hardship.

I hereby declare under penalty of perjury that the facts contained therein are true and correct to the best of my knowledge and belief.

Dated this 17th day of September, 1998.


Richard C. Eychaner